



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,363	07/23/2008	Hedi Slimane	28944/50047	7383

57726 7590 10/13/2010
MILLER, MATTHIAS & HULL
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO, IL 60606

EXAMINER

BARNETT, DEVIN K

ART UNIT	PAPER NUMBER
----------	--------------

3637

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

10/13/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

kdas@MILLERMATTHIASHULL.COM

Office Action Summary	Application No. 10/599,363	Applicant(s) SLIMANE, HEDI	
	Examiner DEVIN BARNETT	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

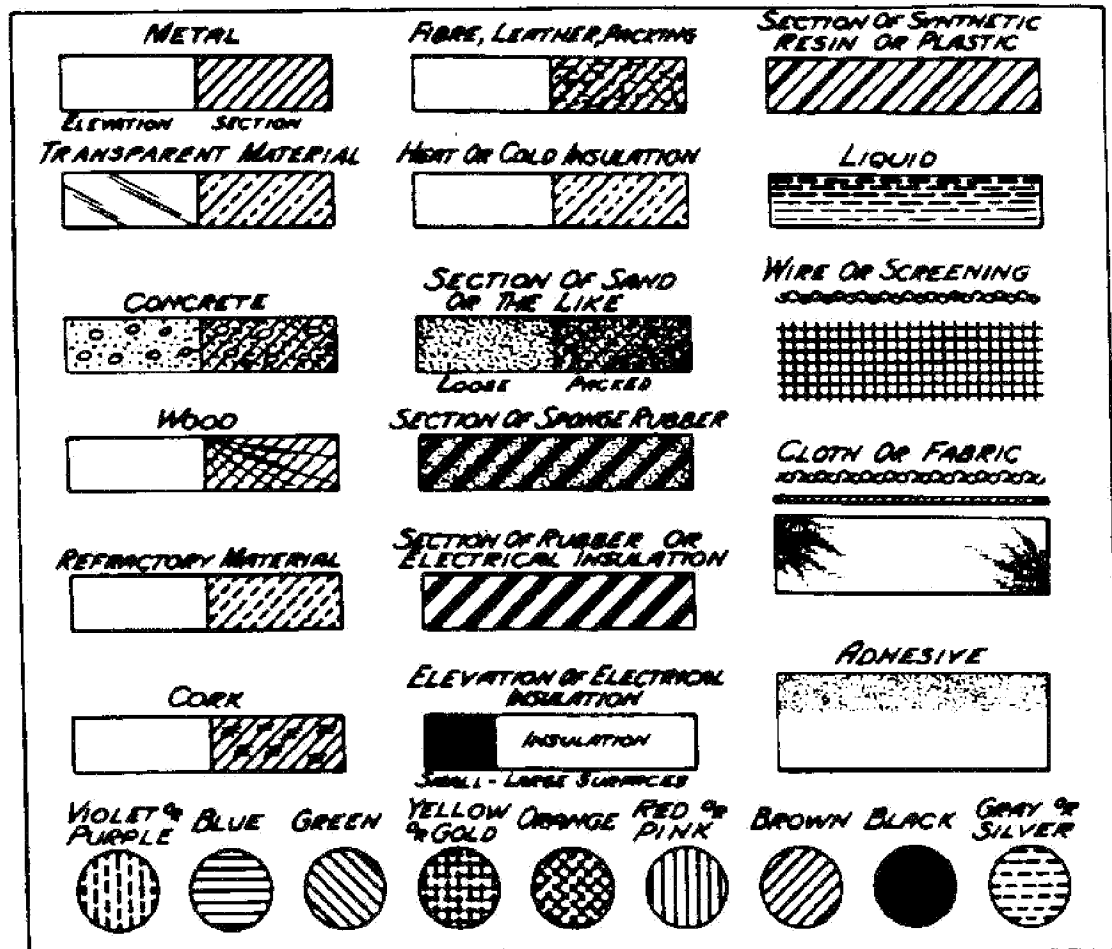
DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the transparent plate resided in claim 6 must be shown with the correct hatch marks (a chart is provided below 37 CFR 1.84(n)) or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3637



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

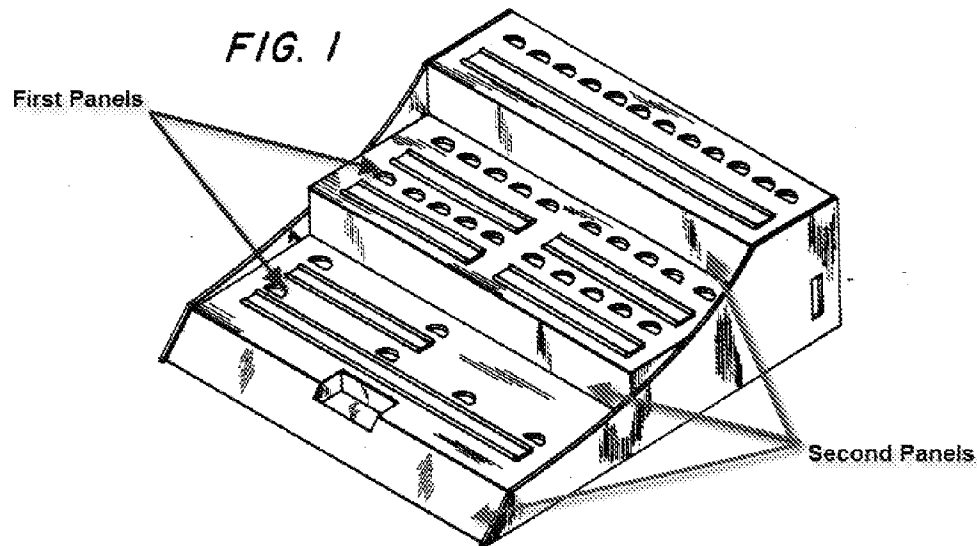
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

Art Unit: 3637

person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-5, and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richman D250,441 in view of Einbinder 2,109,586.

Regarding claim 1, Richman discloses a vertical display stand for articles such as cosmetic products, comprising: a vertical board that has a rear face and a front face, said front face formed at least partially by a plurality of first panels (annotated Fig 1 below) and a plurality of second panels (annotated Fig 1 below); the first and second panels being produced as a single piece together with the board; wherein said first and second panels are superposed vertically in alternance (as shown below); wherein the first panels are adapted to accommodate said articles.



Richman does not explicitly teach a display stand wherein the first panels are non transparent and the second panels are inclined relative to the first panels; wherein the first and the second panels define reliefs substantially in the form of crests, and at least one of the second panels arranged opposite one of the first panels has a reflective surface and is facing slantwise forward and downward such that a person facing the board can observe only a top portion of said articles, either directly, or indirectly by reflection in the second panel placed opposite said first panel.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the first panels from a non transparent material such as metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

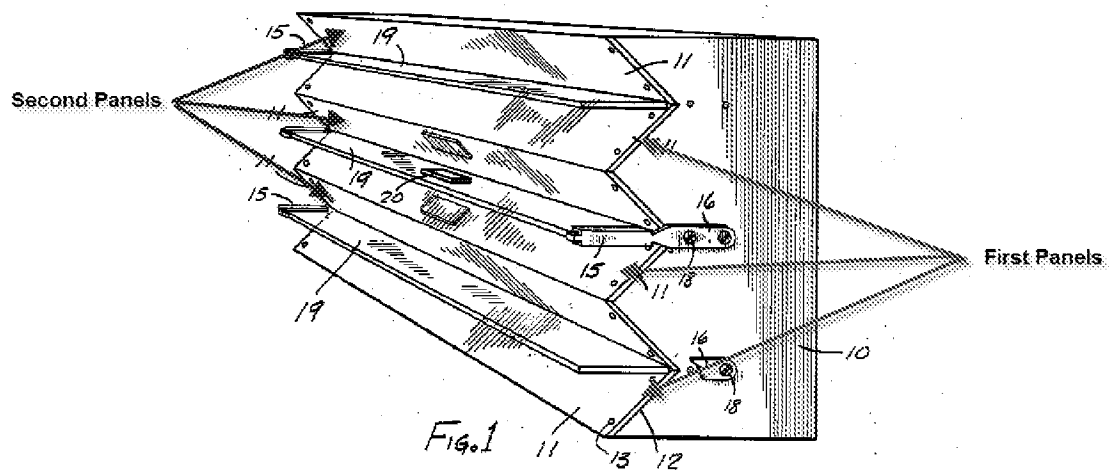
Einbinder discloses a display stand wherein the second panels (annotated Fig 1 below) are inclined relative to the first panels (annotated Fig 1 below); wherein the first and the second panels are superposed vertically in alternance thereby defining a relief substantially in the form of a crest (as shown in Fig 1), and at least one of the second panels arranged opposite one of the first panels has a reflective surface and is facing slantwise forward and downward.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the first and the second panels disclosed in Richman to be inclined as taught by Einbinder, because such a modification would have involved a mere change in the shape of a component. A change in size and shape is generally recognized as being within the level of ordinary skill in the art. Further, it would be obvious to

Art Unit: 3637

add a reflective surface to the second panels disclosed in Richman as taught by Einbinder, in order to make the device more aesthetically appealing for marketing purposes.

It is obvious that when the second panels disclosed in Richman are modified to be inclined relative to the first panels as taught by Einbinder a person facing the board can observe only a top portion of said articles, either directly, or indirectly by reflection in the second panel placed opposite said first panel.



Regarding claim 2, the combination of Richman and Einbinder, particular Einbinder, discloses a display stand wherein the second panels each have a reflective surface (pg 1, col 2, lines 41-42).

Regarding claim 3, modified Richman discloses a display stand wherein the first and second panels extend over the entire width of the stand (as shown in Fig 1).

Regarding claim 4, the combination of Richman and Einbinder, particular Einbinder, discloses a display stand wherein each reflective surface is formed by a flat mirror attached directly to the corresponding second panel (as shown in Fig 1).

Regarding claim 5, modified Richman discloses a display stand wherein each first panel comprises a plurality of recesses in which articles are designed to be arranged (as shown in Fig 1).

Regarding claim 7, the combination of Richman and Einbinder, particularly Einbinder, discloses a display stand wherein the first panel also

Art Unit: 3637

has a reflective surface (pg 1, col 2, lines 41-42).

Regarding claim 8, the combination of Richman and Einbinder, particularly Einbinder, discloses a display stand wherein a board extends substantially vertically, the first panels being inclined downward and the second panels being inclined upward (as shown in Fig 1).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Richman D250,441 in view of Einbinder 2,109,586 and further in view of Yuhara 6,021,784.

Regarding claim 6, the combination of Richman and Einbinder has been discussed above, but does not explicitly teach a display stand wherein a transparent plate is attached pivotably to each first panel to enable the articles an arranged in the plurality of recesses to be covered.

Yuhara discloses a cosmetic case wherein a transparent plate (Fig 1, #14) is attached pivotably to a first panel (Fig 1, # 12) to enable the articles in the first panel to be covered (col 9, lines 49-57) as yet allow the user to see the cosmetic underneath. It would have been obvious to one having

Art Unit: 3637

ordinary skill in the art at the time the invention was made to attach a hinged transparent plate to the first panels disclosed in the combination of Richman and Einbinder as taught by Yuhara, in order to protect the articles that are being displayed on the stand.

Response to Arguments

Applicant's arguments filed 08/11/2010 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner has explained above how the combination of Richman and Einbinder discloses all the limitations of claims 1-5 and 7-8. Further, the examiner applied the teachings of Einbinder to show that it would be obvious to incline the first and second panels disclosed in Richman, since a change in size and shape is generally recognized as being within the level

Art Unit: 3637

of ordinary skill in the art. The examiner further states in the rejection that only the second panels disclosed in Richman are modified to have a reflective surface as taught by Einbinder.

In regards to applicant's arguments with respect to claim 6, the examiner respectfully disagrees with the applicant. Bakic and now Yuhara are applied as teaching to show that it is notoriously well known to use hinged transparent covers to protect cosmetics within a display device while allowing the user to see the covered product. See also LeSage 4,324,446 which teaches a transparent hinged cover for jewelry displays.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory

Art Unit: 3637

period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEVIN BARNETT whose telephone number is (571)270-1159. The examiner can normally be reached on M-Th 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571)272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darnell M Jayne/
Supervisory Patent Examiner, Art Unit
3637

/DEVIN BARNETT/
Examiner, Art Unit 3637